

Regulation on the Procedure for Recognition, Changes and Renewal of the Validity of Industrial Design

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Subject Matter

Article 1

This Regulation shall govern in detail the contents and manner of keeping the Design Register (hereinafter: the Register) and the Record of Design Applications (hereinafter: Record of Applications), the contents of the request and the application for design registration, the contents of the request for the division of multiple applications and the documentation which shall be appended to the request, the data contained in the decision on the registration of a design which are published in the official gazette, the contents of the request for entry of changes in the Register and the documentation which shall be appended to the request, and the contents of the design renewal request and the documentation which shall be appended to the request.

The Contents and Manner of Keeping the Register

Article 2

The Register shall contain the following:

- 1) the number of the application, or the number of each individual industrial design (hereinafter: design), where a multiple application is being submitted, with the total number of designs;
- 2) the full name, or the title of the design holder, with the following data: the address, or seat (street and number, postal code, town and country), telephone number, fax number or e-mail address and similar, as well as the citizenship of the design holder (hereinafter: contact information);
- 3) a representation of the design (appearance), or information that a sample has been appended;
- 4) the name of the product or part of a product containing the design or to which the design has been applied;
- 5) the full name of the authorized representative, if the design holder has one, with contact information;
- 6) the full name of the joint representative, if a joint application is being filed, with contact information;
- 7) the full name(s) of the designer, or team of designers, with contact information, or information that the designer, or team of designers, do not wish to be named in the application;
- 8) information that a description of the representation or a sample of the design has been appended to the application, in accordance with Article 5 paragraph 2 item 1 of this Regulation;
- 9) the publication date of the design registration in the official gazette of the competent authority;
- 10) information about a deferment of the publication and the requested period of deferment;
- 11) the number of class and sub-class under the Locarno Agreement Establishing an International Classification of Industrial Designs (hereinafter: the International Classification);
- 12) information about the priority right, as follows:
 - the date and number of the first application and the name of the state in which the application was filed, where a Union Priority Right is concerned, or
 - the name of the exhibition, the date of opening and date of closure, and the date of the first day of exhibition of the product containing the design or to which the design was applied, where an exhibition priority right is concerned;
- 13) information about the legal basis for a cessation of the validity of the design;

14) information about an appeal against a conclusion discontinuing the procedure, where an appeal has been filed, as follows:

- full name of the appellant, with contact information,
- the number and date of the conclusion of the competent authority against which the appeal is being filed,
- the date of receipt of the appeal,
- the full name or title of the Industrial Design Representative, if the appellant has one, with contact information, and
- the date and type of decision issued in connection with the appeal;

15) information about a lawsuit to declare a design registration invalid, as follows:

- the full name or title of the plaintiff, with contact information,
- the number and date of registration of the design in connection with which the lawsuit is being filed,
- the date of filing the lawsuit, and
- the date and types of decisions rendered in connection with the lawsuit, and information about the finality of the judgment on the lawsuit for declaring a design registration invalid and the content of the judgment's enacting terms, and

16) information about the payment of administrative fees and duties for specific procedural costs. The Register is kept in electronic form.

The Contents and Manner of Keeping the Record of Applications

Article 3

Besides the data prescribed by the Law on Legal Protection of Industrial Design (hereinafter: the Law), the Record of Applications shall contain the following:

- 1) the number of the application, or the number of each individual design, where a multiple application is being filed, with the total number of designs;
- 2) the date of filing the application;
- 3) the full name or title of the applicant, with contact information;
- 4) the full name or title of the authorized Industrial Design Representative, with contact information;
- 5) the full name or title of the joint representative, with contact information, where a joint application is being filed;
- 6) the full name(s) of the designer, or team of designers, with contact information, or information that the designer, or team of designers, do not wish to be named in the application;
- 7) information that a description of the representation or the sample of the design has been submitted with the application, in accordance with Article 5 paragraph 2 item 1 of this Regulation;
- 8) information about a deferment of the publication and the requested period of deferment;
- 9) the number of class and sub-class under the International Classification;
- 10) information about the priority right, if such a right is being sought, as follows:
 - the date and number of the first application and the name of the state in which that application was filed, where a Union Priority Right is concerned, or
 - the name of the exhibition, the date of opening and date of closure, and the date of the first day of exhibition of the product containing the design or to which the design was applied, where an exhibition priority right is concerned;
- 11) information about the priority right of the original application, where the application subject to the entry was created by separating a design from a multiple application;
- 12) information about changes in the design application, and the date when the changes were entered in the Record of Applications;
- 13) the date of issuance of a conclusion discontinuing the procedure, where such a conclusion has been issued;
- 14) information about an appeal against a conclusion of the competent authority, where an appeal has been filed, as follows: contact information of the appellant,
 - the number and date of the conclusion of the competent authority against which the appeal is being filed,

- the date of receipt of the appeal,
 - the contact information of the Industrial Design Representative, if the appellant has one, and
 - the date and type of decision issued in connection with the appeal;
- 15) information about the payment of administrative fees and duties for specific procedural costs. The Record of Applications is kept in electronic form.

The Design Registration Application

Article 4

The design registration application (hereinafter: application) shall be filed with the competent authority in written form, directly, or by mail.

Besides the data prescribed by the Law, the application shall contain:

- 1) a signed declaration of the designer, or team of designers, or the applicant, that the designer or team of designers do not wish to be named in the application, and
- 2) proof of a priority right.

Contents of the Design Registration Request

Article 5

The request for registration of an industrial design shall as an integral part of the application contain the following:

- 1) an explicit request for the registration of an industrial design;
- 2) the number of the design application and its filing date;
- 3) the full name or title of the applicant, with contact information;
- 4) a designation of the product in which the design will be contained or to which the design will be applied in a manner clearly describing the nature of the product and making it possible for every product to be classified in one class, and, if possible, the name from the list of products, in accordance with the International Classification;
- 5) the full name or title of the authorized Industrial Design Representative, with contact information, if the applicant has one;
- 6) an indication of the appointment of a joint representative, where a joint application is being filed;
- 7) an indication of the total number of designs, where a multiple application is being filed, and
- 8) the signature of the applicant or joint representative, or the signature and seal of an Industrial Design Representative, if the applicant has one.

Besides the data referred to in paragraph 1 of this Article, the design registration request may also contain the following:

- 1) a description of the visible characteristics of a representation or sample of the design which may not exceed one hundred words for each design, without citing data concerning the novelty of the design, the individual character of the design, or its technical value;
- 2) a request for a deferment of the publication of a registered design and the requested period of deferment;
- 3) the classification of the product (designation of the class) in which the design will be contained or to which the design will be applied, in accordance with the International Classification;
- 4) contact information about the designer or team of designers, or information that the designer, or team of designers, do not wish to be named in the application;
- 5) information about the priority right, in accordance with Articles 29 and 30 of the Law, and
- 6) indication that the application was created by separation from a multiple application, as well as the number of the original application.

The request referred to in paragraph 1 of this Article shall be completed on form D-1, which is an integral part of this Regulation, and submitted in two copies.

Representation of the Design

Article 6

A representation of the design shall as an integral part of the application be appended on form D-2, which is an integral part of this Regulation, in two copies.

The D-2 form is A 4 in format.

The space for the representation of the design may not exceed 26.2 by 17 cm, nor be less than 4 by 4 cm, and a margin of at least 2.5 cm in width shall exist to the left of that space.

In the upper left hand side corner of form D-2 of this Regulation shall be designated the total number of designs in the application, the sequential number of the design and the number of aspects, in accordance with paragraph 5 of this Article, as well as the applicant, or joint representative.

In the space intended for the representation of the design shall be glued or printed by electronic means a graphic representation or a photograph of the design, in monochrome or colour, and on each copy of the D-2 form of this Regulation there may be only one graphic representation, or photograph, of the design.

The graphic representation or photograph must have right angles and straight edges, they may not be folded, marked or attached to the form by puncturing, and in the graphic representation or photograph there may not be any explanations, legends, other objects, accessories, persons or animals on the design or alongside the design.

Where one graphic representation or photograph cannot show all the characteristics of the novelty and the individual character of the design, more than one, and at most six, graphic representations or photographs from various aspects may be submitted to present the design, in which case every representation of the design shall be individually numbered with two digits separated by a point, the first digit indicating the sequential number of the design, and the second indicating the number of the aspect (e.g., 1.1, 1.2, 1.3).

In the case referred to in paragraph 6 of this Article, the requisite number of copies of form D-2 of this Regulation shall be submitted with the application, and the page number shall be entered in the bottom right corner of every form.

Where a certain part of the design cannot be seen clearly in the representation of the design, that part may be shown magnified.

All appended and duly marked pages together constitute one copy of form D-2 of this Regulation.

Graphic Representation of the Design

Article 7

The graphic representation of the design shall be appended in its original or a reproduced copy of the original done by electronic means or graphic methods, provided the reproduced copy is of the same quality as the original.

The graphic representation of the design must be suitable for reproduction.

The graphic representation of the design in original or reproduced form shall be done with drawing equipment or by electronic means so that all lines are unbroken and the characteristics of the design clearly visible.

If possible, three-dimensional designs should be shown in perspective and may contain shading and shadows in order to emphasize spatiality.

The graphic representation of a design shall be done on white paper.

The graphic representation of a design may not be a technical drawing showing an object in cross-section or a drawing containing axes and sizes (dimensions).

By exception from paragraph 3 of this Article, graphic representation of the design may contain broken or dotted lines if such lines are used to designate visible parts of the design for which no protection is being sought in the procedure cited.

Photograph of the Design

Article 8

An application may contain a photograph of the design or a copy of that photograph made by electronic means or processes.

Photographs and reproductions of photographs of a design shall be made so that the characteristics of the design shown are clearly visible, and so that the photographs are suitable for reproduction.

Photo-copies of photographs may not be appended to serve as representations of the design.

Photographs of designs shall be done on neutral or monochromatic backgrounds.

Photographs may not be retouched (with Indian or other ink, or correction fluid).

Representations of Designs with Repeating Structures, Letters and Numbers

Article 9

Where an application concerns a design consisting of multiple repeated structures (ornaments, patterns and similar), the representation of the design shall show the structure by itself and a sufficient section of the repeated area.

Where an application concerns typographic letter designs, the representation of the design must consist of a sequence of all small and capital letters of the alphabet and Arabic digits from zero to nine, as well as five rows of text written in that script, using font size 16.

Representations of Designs in Colour and Monochrome

Article 10

If a design shown in colour is appended to the application, the design shall be registered and published in that colour, and if a design shown in black and white is appended, the design shall be registered and published in black and white.

In the process of publication of the design and issuance of a decision on the design whose representation was submitted in colour, the best reproduction technology available to the competent authority shall be used.

In the event of a dispute about the shades and tones of colour in which the design was reproduced, the original copy of the representation of the design appended to the application shall be deemed the authentic design of the product.

The Position of the Design

Article 11

The correct position of the design shall be the position depicted in form D-2 of this Regulation.

Representation in Multiple Design Applications

Article 12

Where a multiple application has been filed, a separate graphic representation or photograph shall be appended for each design. If in a multiple application a design is represented with several graphic representations or photographs, all representations concerning the same design should be numbered in accordance with Article 6 paragraph 7 of this Regulation (example: 1.1, 1.2, and 1.3 for the first design, 2.1, 2.2, 2.3 for the second design).

Design Sample

Article 13

A sample of a design shall not exceed 26.2 by 17 cm in length and width, 100 grams in weight, and 5 mm in thickness, and is filed glued to form D-2 of this Regulation.

Perishable products or products which are dangerous to keep shall not be accepted as samples.

Samples of designs are submitted in three copies, and in the case of multiple applications three copies of samples shall be submitted for each design.

Where an application concerns a design referred to in Article 9 paragraph 1 of this Regulation, the design sample shall show the structure of the design and a sufficient part of the repeated area.

Where a deferment of the publication of a design has been requested, the holder of a registered design shall submit a graphic representation or photograph of the design, in accordance with this Regulation, within 90 days from the expiry of the period for which deferment was sought, for the purpose of publication of data in accordance with Article 15 paragraphs 2, 3 and 4 of this Regulation.

Contents of a Request for the Division of a Multiple Application

Article 14

A request for the division of multiple application shall contain the following:

- an explicit request for a multiple application to be divided into several individual applications or multiple separated applications,
- a designation of the total number of separated individual or multiple applications, and
- a new application, or new applications, submitted in accordance with this Regulation.

Contents of the Data Contained in Decisions on Registering Designs Which is Published in the Official Gazette

Article 15

The following data from the decision on the registration of a design shall be published in the official gazette of the competent authority:

- 1) The registration number of the design and the date of issuance of the decision on the registration of the design and entry of the design in the Register;
- 2) The number of the design application and the date of its filing;
- 3) the full name or title of the design holder, with contact information;
- 4) a representation (appearance) of the design;
- 5) the name of the product or part of a product which contains the design or to which the design has been applied;
- 6) the class and sub-class numbers according to the International Classification;
- 7) the full name or title of the authorized Industrial Design Representative, if the design holder has one, with contact information;
- 8) the full name(s) of the designer or team of designers, with contact information, except if they have requested not to be named in the application, and
- 9) the following data on the priority right:
 - the date and number of the first application and the name of the state in which the application was filed, where a Union Priority Right is concerned, or
 - the name of the exhibition, the date of opening and date of closure, and the date of the first day of exhibition of the product containing the design or to which the design was applied, where an exhibition priority right is concerned.

Where a deferment of publication has been sought, data referred to in paragraph 1 items 1, 2, 3, 7 and 8 of this Article, as well as information that deferment of publication has been requested, shall be published in the official gazette of the competent authority.

A representation of the design and details in connection with its appearance shall not be published.

At the expiry of the period for which publication has been deferred, the design shall be published in the first following issue of the official gazette of the competent authority.

If owing to technical limitations in the publication of a graphic representation or photograph the representation of the characteristics of the design is deemed disputable, the original copy of the representation of the design appended to the application shall be deemed the authentic design of the product.

Following publication, all interested parties are entitled to inspect the representation. Where a deferment has been sought, interested parties are entitled only to access bibliographic data about the design referred to in paragraph 2 of this Article.

The data referred to in paragraph 1 of this Article shall be designated with INID codes for the purpose of identifying bibliographic data on the design.

If during the first publication substantial faults are detected in the publication, data contained in the design registration decision shall be published again.

Request to Enter Changes in the Register

Article 16

The entry of changes in the Register shall be initiated by a written request.

The request referred to in paragraph 1 of this Article may be filed for the entry of the following:

1) changes of data about the design holder which have occurred after the registration of the design;

2) licences;

3) transfer of rights to the design;

4) liens, enforcements and bankruptcy, and

5) other data in connection with the legal status of the design holder or with the design.

The request referred to in paragraph 1 of this Article shall be filed on form D-3, which is an integral part of this Regulation.

Contents of the Request to Enter Changes in the Register and the Documentation Appended to the Request

Article 17

The request referred to in Article 16 paragraph 1 of this Regulation shall contain the following:

1) an explicit request for the entry of a change in the Register;

2) the registration number of the design;

3) the design application number (the D- number);

4) contact information for the design holder;

5) contact information for the applicant;

6) contact information of the authorized Industrial Design Representative, if the applicant has one;

7) information about the type of change which is the subject of the entry and the contents of the change, with complete citation of the new data whose entry is being requested, and

8) the signature of the applicant, or signature and seal of an Industrial Design Representative, if the applicant has one.

The following shall be appended to the request referred to in paragraph 1 of this Article:

1) proof of the legal basis of the change whose entry in the Register is being sought;

2) a certified copy of a licensing contract or a certified excerpt from that contract, or the original of the certificate on granting a licence signed by the licencer and the licensee, where the entry of a licence is being sought;

3) a certified copy of a contract on a transfer, or a certified excerpt from that contract, or the original of the certificate of transfer signed by the grantor and the grantee of the design, where the entry or a transfer is being sought;

4) a certified copy of a contract on a lien, or a certified excerpt from that contract, or the original of the certificate on a lien signed by the lienee and the lienor, or other document proving the lien, where the entry of a lien is being sought;

5) a certified copy of a document on an enforcement procedure, or bankruptcy, or a certified excerpt from such a document, where the entry of an enforcement or bankruptcy is being sought;

6) an orderly power of attorney, if the applicant has an Industrial Design Representative, and

7) proof of payment of administrative fees and duties for the specific procedural costs.

Contents of a Request for Design Protection Renewal and Documentation Appended to the Request

Article 18

Renewal of the protection of a design shall be initiated by a written request.

The request referred to in paragraph 1 of this Article shall contain the following:

- 1) an explicit request for a renewal of the protection of the design;
- 2) the registration number of the design, or the number of the design in a multiple application for which renewal of protection is being sought;
- 3) the design application number (the D- number);
- 4) the full name of the design holder, with contact information;
- 5) the full name of the authorized Industrial Design Representative, if the applicant has one, with contact information;
- 6) the signature of the applicant, or signature and seal of an Industrial Design Representative, if the applicant has one.

The request referred to in paragraph 1 of this Article shall be filed on form D-4, which is an integral part of this Regulation.

The following shall be appended to the request for design protection renewal:

- 1) an orderly power of attorney, if the applicant has an Industrial Design Representative, and
- 2) proof of payment of administrative fees and duties for the specific procedural costs.

Delivery of Forms

Article 19

Copies of the forms prescribed by this Regulation shall be delivered to parties at their request.

Entry into Force of this Regulation

Article 20

This Regulation shall enter into force on the eighth day from the date of its publication in the *Official Gazette of Montenegro*.

No: 0901-2756/2

Podgorica, 22nd December 2011

The Minister
Dr Vladimir Kavarić, sgd.